Docket No.: PF458D1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Wei et al.	Allowed: January 14, 2005
Application No.: 10/086,882	Confirmation No.: 2419
Filed: March 4, 2002	Art Unit: 1646
For: CHEMOKINE ALPHA-6	Examiner: P. M. Mertz

TRANSMITTAL LETTER

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Allowance and Fees Due mailed January 14, 2005, Applicants submit herewith: (1) Fee Transmittal; (2) Part B – Fee(s) Transmittal (Form PTOL-85) and the appropriate fees; (3) Application for Patent Term Adjustment Under 37 C.F.R. §1.705(b) with accompanying Exhibits A-C; and (4) Declaration of Mark J. Hyman.

No additional fees are believed due with this submission. However, should the Patent Office determine otherwise, the Commissioner is hereby authorized to charge such fee to Applicants' Deposit Account No. 08-3425.

Dated: March 11, 2005

Respectfully submitted,

By _____
Mark J. Hyman
Registration No.: 46,789
HUMAN GENOME SCIENCES, INC.
Intellectual Property Dept.
14200 Shady Grove Road
Rockville, Maryland 20850
(240) 314-1224

VIA HAND DELIVERY MARCH 11, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Wei et al.

Application No.: 10/086,882 Confirmation No.: 2419

Filed: March 4, 2002 Art Unit: 1646

For: CHEMOKINE ALPHA-6 Examiner: P. M. Mertz

APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request reconsideration of the patent term adjustment indicated on Form PTOL-85 with the Notice of Allowance mailed on January 14, 2005. The correct PTA due under 35 U.S.C. § 154(b)(1)(A) is 495 days as detailed below (excluding any PTA due under 35 U.S.C. § 154(b)(1)(B)). In particular, because the Examiner expressly requested the Supplemental Response filed on November 17, 2004, this filing cannot constitute a failure to engage in reasonable efforts to conclude processing or examination of the instant application under 37 C.F.R. § 1.704.

This application is being timely made, as it is being submitted concurrently with the issue fee payment. The requirements of 37 C.F.R. § 1.705(b)(1) are satisfied by the Fee Transmittal Sheet enclosed herewith, authorizing payment of the fee set forth in 37 C.F.R. 1.18(e). The requirements of 37 C.F.R. § 1.705(b)(2) are satisfied by the following Statement of Facts, as supplemented by the attached Exhibits.

STATEMENT OF FACTS

1. The instant application was filed on March 4, 2002, and is thus eligible for patent term adjustment under 35 U.S.C. § 154.

2. The instant application is not subject to a terminal disclaimer.

3. The instant application was filed on March 4, 2002. However, the Office failed to initially act on the application within the 14 month permitted time frame allowed under 35 U.S.C. § 154(b)(1)(A). In particular, a written restriction requirement was not issued until September 10, 2004. Thus, Applicants are entitled to a patent term adjustment of 495 days due to the Patent Office's delay from the day after the date fourteen months after Applicants' application was filed (May 5, 2003) to the date of mailing of the first notification under 35 U.S.C. 132 (September 10, 2004). *See* 35 U.S.C. § 154(b)(1)(A) and 37 C.F.R. §§ 1.702(a)(1) & 1.703(a)(1).

4. In response to the written restriction requirement mailed on September 10, 2004, Applicants timely submitted a proper amendment with provisional election and IDS on October 6, 2004.

5. Subsequent to the response to the written restriction requirement and prior to the mailing of a first Office action on the merits, the Examiner contacted the undersigned attorney for Applicants by telephone on November 17, 2004. *See, e.g.,* Interview Summary dated November 18, 2004 (Exhibit A). The Examiner indicated that the claims would be allowable with minor amendments, and requested that Applicants make such amendments to the claims in order to expedite the allowance of the application. The Examiner also requested that Applicants file a statement regarding the ATCC deposit. Applicants note that the Interview Summary does not clearly reflect the Examiner's requests, focusing instead on the potential rejections being considered by the Examiner. Accordingly, Applicants submit a Declaration of the undersigned attorney for Applicants as additional evidence that the papers filed on November 17, 2004 were requested in the telephone interview on that date.

6. Applicants filed a Supplemental Amendment and statement regarding the ATCC deposit as requested by the Examiner by facsimile on the day they were requested, November 17, 2004. *See* Exhibit B. As noted therein, the Supplemental Amendment was filed in response to the Examiner's express request, and thus no reduction of PTA under

37 C.F.R. § 1.704 should have been made. *See, e.g.,* page 1 of the Supplemental Amendment.

7. A notice of allowance was mailed on January 14, 2005. The PTA calculated on form PTOL-85 indicated a PTA of 453 days. As shown on the Patent Term Adjustment screen in the PAIR system, a PTA reduction of 42 days was erroneously made based on the period between the day after the filing of the Provisional Election and Response with Traverse under 37 C.F.R. § 1.143 (October 7, 2004) and the date the Supplemental Amendment requested by the Examiner was filed (November 17, 2004). *See* Exhibit C.

8. Other than the circumstances described above, there have been no circumstances that could reasonably be construed as a failure to engage in reasonable efforts to conclude processing or examination of this application.

ARGUMENT

Applicants respectfully assert that the Supplemental Amendment filed November 17, 2004 cannot constitute a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704. As discussed above, the Supplemental Amendment was filed only after being expressly requested by the Examiner to expedite the allowance of the application. Such filings are not within the reach of 37 C.F.R. § 1.704(c)(8), which specifically excepts papers expressly requested by the Examiner.

To the extent that the Examiner's Interview Summary does not clearly indicate that the November 17, 2004 filing was requested by the Examiner, the attached Declaration of the undersigned attorney confirms that the request was made. Applicants also point out that the filing was made on the same day as the interview, and expressly indicates in the first sentence of the Supplemental Amendment that the filing is being made at the Examiner's request. Accordingly, it is clear from the record that Applicants made the November 17, 2004 filing at the request of the Examiner.

Moreover, a holding that the papers filed on November 17, 2004 in this case constituted a failure to engage in reasonable efforts to conclude processing or examination of the application would directly conflict with both the facts in the case and the purpose

behind the applicable statute and rule. After the Examiner's telephone call on November 17, 2004, Applicants could have declined to file the requested papers, awaited a written office action, waited another three months, then filed a response, thus delaying the Examiner's receipt of the filing until February 2005 at the earliest. By doing so, Applicants would have delayed the conclusion of prosecution by at least three months and potentially accrued additional PTA under the three-year guarantee of 35 U.S.C. § 154(b)(1)(B). Rather than unreasonably delaying prosecution in this manner, Applicants instead expedited prosecution by filing what the Examiner requested on the same day and putting the application into condition for allowance. If such an effort can be held to constitute a "failure to engage" under 37 C.F.R. § 1.704(c), practitioners will be discouraged from assisting Examiners by making filings to expedite prosecution in similar situations, further exacerbating the pendency problems at the PTO.

Accordingly, Applicants respectfully request that the PTA for the instant application be reconsidered in light of the facts and arguments above. In particular, Applicants maintain that the instant application is entitled to at least 495 days of PTA. If any further information is required, please contact the undersigned at the number listed below. Please charge any additional fees due in connection with the filing of this paper, or credit any overpayment, to Deposit Account No. 08-3425.

Dated: March 11, 2005

Respectfully submitted,

By _____

Mark J. Hyman
Registration No.: 46,789
HUMAN GENOME SCIENCES, INC.
Intellectual Property Dept.
14200 Shady Grove Road
Rockville, Maryland 20850
(240) 314-1224

Enclosures
MJH/BM/lcc

Interview Summary	Application No.	Applicant(s)	
	10/086,882	WEI ET AL.	
	Examiner	Art Unit	
	Prema M Mertz	1646	

All participants (applicant, applicant's representative, PTO personnel):

(1) *Prema M Mertz (Primary Examiner)*. (3)_____.

(2) *Mark J. Hyman (Attorney)*. (4)_____.

Date of Interview: *17 November 2004*.

Type: a)☒ Telephonic b)☐ Video Conference
c)☐ Personal [copy given to: 1)☐ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☐ No.
If Yes, brief description: _____.

Claim(s) discussed: *21-101*.

Identification of prior art discussed: *none*.

Agreement with respect to the claims f)☐ was reached. g)☐ was not reached. h)☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: *See Continuation Sheet*.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Prema Mertz
Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: It was indicated to Mr. Hyman that claims 44 and 66 recited "chemokine alpha-6 activity" but it was unclear what this activity was (a 35 USC 112, second paragraph rejection). Furtehrmore, recitation of "% identity" required the recitation of the specific biological activity of the polypeptide to obviate a 35 USC 112, first paragraph (written description and scoope rejection). Furthermore, new claims 102-11 precipitated 35 USC 112 first and second paragraph rejections because it was unclear what "endothelial function" was inhibited and which fragment of the polypeptide was "angiostatic". Mr. Hyman would also supply the statement regarding the ATCC deposit to obviate a 35 USC 112, first paragraph non-enablement rejection .

HUMAN GENOME SCIENCES
INTELLECTUAL PROPERTY DEPARTMENT

14200 Shady Grove Road
Rockville, MD 20850

Phone: 301-309-8504 **Fax: 301-309-8439**

FAX COVER SHEET

DATE: November 17, 2004 TOTAL NUMBER OF PAGES: 16

TO: **Examiner Prema Mertz**
Art Unit 1646
United States Patent & Trademark Office

FAX NO.: (571) 273-0876

PHONE NO.: (571) 272-0876

FROM: Mark J. Hyman (Reg. No. 46,789)

RE: Application of: Wei et al. Attorney Docket No.: PF458D1
Application No.: 10/086,882 Art Unit: 1646
Filed: March 4, 2002

The following documents were filed by Human Genome Sciences, Inc. via facsimile on November 17, 2004:

1. Fax Cover Sheet
2. Supplemental Amendment
3. Certificate of Transmission Under 37 C.F.R. § 1.8
4. ATCC Deposit Receipt

If you experience any difficulty receiving this transmission, please contact Mark J. Hyman at (240) 314-1224.

VIA FACSIMILE NOVEMBER 17, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Wei et al.

Application No.: 10/086,882 Art Unit: 1646

Filed: March 4, 2002 Examiner: Mertz, P.

For: Chemokine-Alpha 6 Attorney Docket No.: PF458D1

SUPPLEMENTAL AMENDMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

As expressly requested by the Examiner by telephone on November 17, 2004, Applicants submit the following amendments and remarks. Since the instant filing was requested by the Examiner, and assists with the Examiner's efforts to conclude prosecution, no reduction of PTA under 37 C.F.R. § 1.704 should be made as a result of this filing.

Please amend the application as follows:

Amendments to the Claims

This listing of claims will replace all prior versions, and listings, of claims.

Listing of claims

1-20. (Canceled)

21. (Previously presented) An isolated polypeptide comprising an amino acid sequence selected from the group consisting of:

(a) amino acid residues +1 to +84 of SEQ ID NO:2;

(b) amino acid residues +2 to +84 of SEQ ID NO:2;

(c) amino acid residues +17 to +84 of SEQ ID NO:2;

(d) amino acid residues +18 to +84 of SEQ ID NO:2;

(e) amino acid residues +19 to +84 of SEQ ID NO:2;

(f) amino acid residues +20 to +84 of SEQ ID NO:2;

(g) amino acid residues +21 to +84 of SEQ ID NO:2; and

(h) amino acid residues +22 to +84 of SEQ ID NO:2.

22. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (a).

23. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (b).

24. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (c).

25. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (d).

26. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (e).

27. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (f).

28. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (g).

29. (Previously presented) The isolated polypeptide of claim 21, which comprises amino acid sequence (h).

30. (Previously presented) The isolated polypeptide of claim 21, which further comprises a heterologous amino acid sequence.

31. (Previously presented) The isolated polypeptide of claim 30 wherein said heterologous amino acid sequence is the Fc domain of immunoglobulin.

32. (Previously presented) The isolated polypeptide of claim 21, which is glycosylated.

33. (Previously presented) The isolated polypeptide of claim 21 produced by a method comprising:

(a) culturing a cell comprising a recombinant polynucleotide encoding the polypeptide of claim 21 under conditions that result in expression of said polypeptide; and

(b) recovering the polypeptide.

34. (Previously presented) A composition comprising the isolated polypeptide of claim 21 and a pharmaceutically acceptable carrier.

35. (Previously presented) An isolated polypeptide comprising an amino acid sequence selected from the group consisting of:

(a) the amino acid sequence of the full-length polypeptide encoded by the cDNA in ATCC Deposit No. 209643;

(b) the amino acid sequence of the full-length polypeptide, excluding the N-terminal methionine residue, encoded by the cDNA in ATCC Deposit No. 209643; and

(c) the amino acid sequence of the mature polypeptide encoded by the cDNA in ATCC Deposit No. 209643.

36. (Previously presented) The isolated polypeptide of claim 35 which comprises amino acid sequence (a).

37. (Previously presented) The isolated polypeptide of claim 35 which comprises amino acid sequence (b).

38. (Previously presented) The isolated polypeptide of claim 35 which comprises amino acid sequence (c).

39. (Previously presented) The isolated polypeptide of claim 35, which further comprises a heterologous amino acid sequence.

40. (Previously presented) The isolated polypeptide of claim 39 wherein said heterologous amino acid sequence is the Fc domain of immunoglobulin.

41. (Previously presented) The isolated polypeptide of claim 35, which is glycosylated.

42. (Previously presented) The isolated polypeptide of claim 35 produced by a method comprising:

(a) culturing a cell comprising a recombinant polynucleotide encoding the polypeptide of claim 35 under conditions that result in expression of said polypeptide; and

(b) recovering the polypeptide.

43. (Previously presented) A composition comprising the isolated polypeptide of claim 35 and a pharmaceutically acceptable carrier.

44. (Currently amended) An isolated polypeptide comprising a first amino acid sequence at least 90% identical to a second amino acid sequence selected from the group consisting of:

(a) amino acid residues +1 to +84 of SEQ ID NO:2;

(b) amino acid residues +2 to +84 of SEQ ID NO:2;

(c) amino acid residues +17 to +84 of SEQ ID NO:2;

(d) amino acid residues +18 to +84 of SEQ ID NO:2;

(e) amino acid residues +19 to +84 of SEQ ID NO:2;

(f) amino acid residues +20 to +84 of SEQ ID NO:2;

(g) amino acid residues +21 to +84 of SEQ ID NO:2; and

(h) amino acid residues +22 to +84 of SEQ ID NO:2;

wherein said polypeptide ~~has chemokine α-6 activity~~ is chemotactic for leukocytes.

45. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (a).

46. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (a).

47. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (b).

48. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (b).

49. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (c).

50. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (c).

51. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (d).

52. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (d).

53. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (e).

54. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (e).

55. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (f).

56. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (f).

57. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (g).

58. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (g).

59. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (h).

60. (Previously presented) The isolated polypeptide of claim 44 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (h).

61. (Previously presented) The isolated polypeptide of claim 44, which further comprises a heterologous amino acid sequence.

62. (Previously presented) The isolated polypeptide of claim 61 wherein said heterologous amino acid sequence is the Fc domain of immunoglobulin.

63. (Previously presented) The isolated polypeptide of claim 44, which is glycosylated.

64. (Previously presented) The isolated polypeptide of claim 44 produced by a method comprising:

(a) culturing a cell comprising a recombinant polynucleotide encoding the polypeptide of claim 44 under conditions that result in expression of said polypeptide; and

(b) recovering the polypeptide.

65. (Previously presented) A composition comprising the isolated polypeptide of claim 44 and a pharmaceutically acceptable carrier.

66. (Currently amended) An isolated polypeptide comprising a first amino acid sequence at least 90% identical to a second amino acid sequence selected from the group consisting of:

(a) the amino acid sequence of the full-length polypeptide encoded by the cDNA in ATCC Deposit No. 209643;

(b) the amino acid sequence of the full-length polypeptide, excluding the N-terminal methionine residue, encoded by the cDNA in ATCC Deposit No. 209643; and

(c) the amino acid sequence of the mature polypeptide encoded by the cDNA in ATCC Deposit No. 209643;

wherein said polypeptide ~~has chemokine α-6 activity~~ is chemotactic for leukocytes.

67. (Previously presented) The isolated polypeptide of claim 66 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (a).

68. (Previously presented) The isolated polypeptide of claim 66 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (a).

69. (Previously presented) The isolated polypeptide of claim 66 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (b).

70. (Previously presented) The isolated polypeptide of claim 66 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (b).

71. (Previously presented) The isolated polypeptide of claim 66 wherein said first amino acid sequence is at least 90% identical to said second amino acid sequence (c).

72. (Previously presented) The isolated polypeptide of claim 66 wherein said first amino acid sequence is at least 95% identical to said second amino acid sequence (c).

73. (Previously presented) The isolated polypeptide of claim 66, which further comprises a heterologous amino acid sequence.

74. (Previously presented) The isolated polypeptide of claim 73 wherein said heterologous amino acid sequence is the Fc domain of immunoglobulin.

75. (Previously presented) The isolated polypeptide of claim 66, which is glycosylated.

76. (Previously presented) The isolated polypeptide of claim 66 produced by a method comprising:

(a) culturing a cell comprising a recombinant polynucleotide encoding the polypeptide of claim 66 under conditions that result in expression of said polypeptide; and

(b) recovering the polypeptide.

77. (Previously presented) A composition comprising the isolated polypeptide of claim 66 and a pharmaceutically acceptable carrier.

78. (Currently amended) An isolated polypeptide ~~comprising~~ consisting of a fragment of the polypeptide of SEQ ID NO:2, wherein said fragment has an amino acid sequence selected from the group consisting of:

(a) amino acid residues +26 to +34 of SEQ ID NO:2;

(b) amino acid residues +36 to +45 of SEQ ID NO:2;

(c) amino acid residues +58 to +66 of SEQ ID NO:2; and

(d) amino acid residues +77 to +84 of SEQ ID NO:2.

79. (Currently amended) The isolated polypeptide of claim 78 ~~which comprises~~ wherein the amino acid sequence is (a).

80. (Currently amended) The isolated polypeptide of claim 78 ~~which comprises~~ wherein the amino acid sequence is (b).

81. (Currently amended) The isolated polypeptide of claim 78 ~~which comprises~~ wherein the amino acid sequence is (c).

82. (Currently amended) The isolated polypeptide of claim 78 ~~which comprises~~ wherein the amino acid sequence is (d).

83. (Currently amended) The isolated polypeptide of claim 78, which ~~further comprises~~ is fused to a heterologous amino acid sequence.

84. (Previously presented) The isolated polypeptide of claim 83 wherein said heterologous amino acid sequence is the Fc domain of immunoglobulin.

85. (Previously presented) The isolated polypeptide of claim 78, which is glycosylated.

86. (Previously presented) The isolated polypeptide of claim 78 produced by a method comprising:

(a) culturing a cell comprising a recombinant polynucleotide encoding the polypeptide of claim 78 under conditions that result in expression of said polypeptide; and

(b) recovering the polypeptide.

87. (Previously presented) A composition comprising the isolated polypeptide of claim 78 and a pharmaceutically acceptable carrier.

88. (Previously presented) An isolated polypeptide consisting of at least 30 contiguous amino acid residues of SEQ ID NO:2.

89. (Previously presented) The isolated polypeptide of claim 88, which consists of at least 50 contiguous amino acid residues of SEQ ID NO:2.

90. (Previously presented) The isolated polypeptide of claim 88, which is fused to a heterologous amino acid sequence.

91. (Previously presented) The isolated polypeptide of claim 90 wherein said heterologous amino acid sequence is the Fc domain of immunoglobulin.

92. (Previously presented) The isolated polypeptide of claim 88, which is glycosylated.

93. (Previously presented) The isolated polypeptide of claim 88 produced by a method comprising:

(a) culturing a cell comprising a recombinant polynucleotide encoding the polypeptide of claim 88 under conditions that result in expression of said polypeptide; and

(b) recovering the polypeptide.

94. (Previously presented) A composition comprising the isolated polypeptide of claim 88 and a pharmaceutically acceptable carrier.

95. (Previously presented) An isolated polypeptide consisting of at least 30 contiguous amino acid residues encoded by the cDNA in ATCC Deposit No. 209643.

96. (Previously presented) The isolated polypeptide of claim 95, which consists of at least 50 contiguous amino acid residues encoded by the cDNA in ATCC Deposit No. 209643.

97. (Previously presented) The isolated polypeptide of claim 95, which is fused to a heterologous amino acid sequence.

98. (Previously presented) The isolated polypeptide of claim 97 wherein said heterologous amino acid sequence is the Fc domain of immunoglobulin.

99. (Previously presented) The isolated polypeptide of claim 95, which is glycosylated.

100. (Previously presented) The isolated polypeptide of claim 95 produced by a method comprising:

(a) culturing a cell comprising a recombinant polynucleotide encoding the polypeptide of claim 95 under conditions that result in expression of said polypeptide; and

(b) recovering the polypeptide.

101. (Previously presented) A composition comprising the isolated polypeptide of claim 95 and a pharmaceutically acceptable carrier.

102-111. (Canceled)

Remarks

Claims 6, 17, 19-20, and 102-111 have been canceled without prejudice or disclaimer. Claims 44, 66, and 78-83 have been amended as discussed with the Examiner. More particularly, claims 44 and 66 have been amended to recite "wherein said polypeptide is chemotactic for leukocytes," claim 78 has been amended to replace the term "comprising" with the phrase "consisting of a fragment...," and dependent claims 79-83 have been amended in accordance with the amendment to claim 78. No new matter has been added.

In the telephone conference of November 17, 2004, the Examiner indicated that the claims would be allowable with the instant amendments upon the submission of an appropriate statement regarding the public availability of the ATCC deposit. While Applicants maintain that the previously pending claims were also allowable, the claims have been amended as discussed with the Examiner. Applicants reserve the right to pursue the canceled subject matter in continuing applications. Applicants also provide the requested statement regarding the ATCC Deposit below. Accordingly, Applicants believe that the application is in condition for allowance.

Statement Regarding the ATCC Deposit

Applicants' representative hereby gives the following assurance by signature below:

Human Genome Sciences, Inc., the assignee of the present application, has deposited biological material under the terms of the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure with the following International Depository Authority: American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209 (present address). The deposit was made on February 25, 1998, accepted by the ATCC, and given ATCC Accession Number 209643. In accordance with M.P.E.P. § 2410.01 and 37 C.F.R. § 1.808, assurance is hereby given that all restrictions on the availability to the public of ATCC Accession Number 209643 will be irrevocably removed upon the grant of a patent based on the instant application, except as permitted under 37 C.F.R. § 1.808(b). A partially redacted copy of the ATCC Deposit Receipt for Accession Number 209643 is enclosed herewith.

Conclusion

In view of the foregoing, Applicants believe that this application is now in condition for allowance. The Examiner is invited to call the undersigned at the phone number provided below if any further action by applicant would expedite the allowance of this application.

Finally, if there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: November 17, 2004

Mark J. Hyman (Reg. No. 46,789)
Attorney for Applicants

Human Genome Sciences, Inc.
14200 Shady Grove Road
Rockville, MD 20850
(240) 314-1224

MJH/BM/lcc

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8

1. Fax Cover
2. Supplemental Amendment
3. ATCC Deposit Receipt

I hereby certify that the above-listed correspondence is being facsimile transmitted to the United States Patent and Trademark Office on November 17, 2004.

Mark J. Hyman (Reg. No. 46,789)
Attorney for Applicants

Human Genome Sciences, Inc.
14200 Shady Grove Road
Rockville, MD 20850
(240) 314-1224

United States Patent and Trademark Office

PATENT APPLICATION INFORMATION RETRIEVAL

Printer Friendly Version

Patent Term Adjustment (PTA) for application number: 10/086,882

			Days
Filing or 371(c) Date:	03-04-2002	USPTO Delay (PTO):	495
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	42
Post-Issue Petitions (days):	+0	Total PTA:	453
USPTO Adjustment (days):	+0	Explanation of Calculations	

Select Search Option

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Display References
File History
Image File Wrapper
Publication Review
Published Documents

Patent Term Adjustment History

Date	Contents Description	PTO (days)	APPL (days)
01-14-2005	Mail Notice of Allowance		
01-13-2005	Issue Revision Completed		
01-13-2005	Notice of Allowance Data Verification Completed		
01-13-2005	Notice of Allowability		
11-30-2004	Date Forwarded to Examiner		
11-17-2004	Supplemental Response		42
10-06-2004	Reference capture on IDS		↑
10-06-2004	Information Disclosure Statement (IDS) Filed		↑
10-19-2004	Date Forwarded to Examiner		↑
10-06-2004	Response to Election / Restriction Filed		↑
10-06-2004	Workflow incoming amendment IFW		
09-10-2004	Mail Restriction Requirement	495	
09-08-2004	Requirement for Restriction / Election	↑	
08-27-2003	IFW TSS Processing by Tech Center Complete	↑	
08-25-2002	Receipt of all Acknowledgement Letters	↑	
03-19-2002	Miscellaneous Incoming Letter	↑	
05-09-2002	Case Docketed to Examiner in GAU	↑	
04-30-2002	Application Dispatched from OIPE	↑	
04-29-2002	Application Is Now Complete	↑	
04-13-2002	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	↑	
03-28-2002	IFW Scan & PACR Auto Security Review	↑	
03-25-2002	CRF Is Good Technically / Entered into Database	↑	
03-15-2002	IFW Scan & PACR Auto Security Review	↑	
03-04-2002	CRF Disk Has Been Received by Preexam / Group / PCT	↑	

| 03-04-2002 | Initial Exam Team nn |

PTO/SB/82 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/086,882-Conf. #2419
Filing Date	March 4, 2002
First Named Inventor	Ying-Fei Wei
Art Unit	1646
Examiner Name	P. M. Mertz
Attorney Docket Number	PF458D1

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint the practitioners associated with the Customer Number: 22195

☒ Please change the correspondence address for the above-identified application to:

☒ The address associated with Customer Number: 22195

OR

☐ Firm *or* Individual Name	
Address	
City	
Country / State / Zip	
Telephone / Fax	

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature			
Name	James H. Davis		
Date	3/11/2005	Telephone	(301) 309-8504

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms is submitted.

PTO/SB/96 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Wei et al.

Application No./Patent No.: 10/086,882 Filed/Issue Date: March 4, 2002

Entitled: CHEMOKINE ALPHA-6

Human Genome Sciences, Inc. (Name of Assignee) , a Corporation (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [x] the assignee of the entire right, title, and interest; or

2. [ ] an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A. [x] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 9729, Frame 0576, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	3/11/2005 Date
James H. Davis Printed or Typed Name	(301) 309-8504 Telephone Number
Executive Vice President And General Counsel Title	

VIA HAND DELIVERY MARCH 11, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Wei et al.

Application No.: 10/086,882 Confirmation No.: 2419

Filed: March 4, 2002 Art Unit: 1646

For: CHEMOKINE ALPHA-6 Examiner: P. M. Mertz

DECLARATION OF MARK J. HYMAN

I, Mark J. Hyman, do hereby declare and state as follows:

1. I am currently employed as a Patent Attorney at Human Genome Sciences, Inc. My registration number is 46,789. I am an attorney of record in the above application.

2. On November 17, 2004, I received a telephone call from Examiner Prema Mertz. Examiner Mertz stated that she had reviewed the claims and amendments submitted on October 6, 2004 in the above application, and indicated that she would allow the application if claims 6, 17, 19-20, and 102-111 were canceled, minor amendments were made to claims 44, 66, and 78-83, and a statement regarding the availability of the ATCC deposit was submitted.

3. Examiner Mertz explicitly requested that I send the amendments and statement described in paragraph 2 to her by facsimile as soon as possible in order to expedite the allowance of the application.

4. I prepared the amendments and statement requested by Examiner Mertz on November 17, 2004. I also personally faxed them to Examiner Mertz on November 17, 2004 as she requested.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application captioned above or any patent issuing thereupon.

Date: March 11, 2005

Mark J. Hyman (Reg. No. 46,789)